Government of Saskatchewan

Annual Report 2004 - 2005

Saskatchewan Justice

The Freedom of Information and Protection of Privacy Act

Saskatchewan Centennial 2005

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Letter of Transmittal

Her Honour the Honourable Dr. Lynda M. Haverstock
Lieutenant Governor of Saskatchewan

May It Please Your Honour:

In accordance with Section 63(1) of *The Freedom of Information and Protection of Privacy Act,* I respectfully submit the 2004-2005 Annual Report of the administration of this Act and the regulations within each government institution during the period April 1, 2004 to March 31, 2005.

Frank Quennell, Q.C.
Minister of Justice and
Attorney General

Mandate

The Minister of Justice is the Minister Responsible for the administration of *The Freedom of Information and Protection of Privacy Act.* While the nature of the Act requires that decisions with respect to access to records and the management of personal information be made within each government institution governed by the Act, the Minister of Justice retains overall responsibility for its administration.

The Minister is required by the Act to:

- Produce and update as required, a directory of all government institutions, including a general description of their records and a contact person to whom applications for access may be sent (Section 64(1)).
- Make a copy of the directory available to any government office, public library and municipal office (Section 64(2)).
- Prepare and submit an annual report to the Speaker of the Assembly on the administration of the Act and the regulations, within each government institution (Section 63).

Governing Legislation

The Freedom of Information and Protection of Privacy Act was passed in June 1991 and proclaimed April 1, 1992.

The Act applies to all departments, secretariats and similar agencies of the executive government of Saskatchewan. The regulations extend that coverage to a broad range of Crown Corporations, Boards, Commissions and other bodies with government appointments.

The Act is really "two Acts in one".

First, the Act provides a right of access to records in the possession or control of provincial "government institutions".

Secondly, the Act establishes rules for how the government collects and deals with personal information.

The Act applies to records in all formats, eg: written, photographed, audiovisual, computer generated, etcetera.

Department of Justice Responsibilities

On an ongoing basis, the Department of Justice provides direction and support to government institutions and to the public as it relates to *The Freedom of Information and Protection of Privacy Act*. The Department:

- monitors the administrative procedures, and recommends and implements changes as necessary;
- coordinates the preparation of the Annual Report, including the collection of quarterly statistics; and
- provides training on an ongoing basis.

Institutions' Responsibilities

The "Head" of a government institution is the person who has the authority to respond to applications for access. However, under Section 60 of the Act, the "Head" can delegate the powers to one or more officers (Access Officers) of the government institution.

Each government institution also has an Administrative Coordinator. The Coordinators are responsible for tracking the paper flow and dealing with the public on a one to one basis.

Fees

The Act states that an applicant who is entitled to access a record, may do so upon payment of a fee. The fee structure is outlined in Section 6 of *The Freedom of Information and Protection of Privacy Regulations*.

Each institution applies this fee structure when determining the fees to be paid by an applicant on application for access.

If the fees are greater than $50.00, the institution is required to give the applicant a reasonable estimate of the cost. The institution can also require the applicant to pay a deposit of up to one-half the estimated cost prior to providing access.

In certain circumstances the Head of an institution may waive payment of the fees, or any portion thereof. Those circumstances are outlined in Section 9 of the Regulations.

The Saskatchewan Access Directory

Section 64 of *The Freedom of Information and Protection of Privacy Act* requires that a directory be produced and updated as reasonably required. The Directory is to contain a list of all government institutions, including a general description of the categories of records in the possession or under the control of each institution and the title and address of the appropriate officer for each institution to whom applications for access to records should be sent.

The Saskatchewan Access Directory was updated in March 2000 and was distributed to all government institutions.

This directory was developed to be as user friendly as possible. The introduction section of the Access Directory gives instructions on how to use the directory as well as a copy of the forms to be used.

It also provides a list of the address and telephone number of the Administrative Coordinator in each institution and a summary of the kinds of "common records" that are found in each government institution.

The next section is the largest and the most useful. It contains an entry for each institution covered under the Act and the Regulations.

The entries are arranged alphabetically by institution name. Each entry contains:

- the address of the head office;
- the institution's mandate;
- the institution's organization;
- the general classes or types of operational records;
- the types of personal information not included under Common Records/Common Personal Information; and
- the address and telephone number of the institution's Administrative Coordinator.

The remaining sections of the Access Directory provide an easy to use alphabetical subject index to assist in determining which institution might hold the type of record being requested and a copy of the Act.

This directory was distributed throughout the Province. All government institutions across the province as well as all the public libraries across the province have copies for public use.

Reports

The Department of Justice collects and reports on statistics generated by use of the Act. These reports provide statistics both by institution and government-wide. The reports are divided into two categories: General and Personal.

Applications for general information refer to records in the possession or under the control of a government institution other than those described as personal information in Section 24 of the Act.

Applications for personal information refer to records in the possession or under the control of a government institution described in Section 24 of the Act.

The following tables reflect the results of those reports.

Table A – Freedom of Information Statistical Summary Report

- provides information on the number of applications received government-wide, their status, the processing time in completing the applications, the fees estimated to process the request and the fees collected once access was provided for the fiscal years 2000-2001, 2001-2002, 2002-2003, 2003-2004 and 2004-2005.

Table B – Exemptions Used to Deny Access

- provides statistics on exemptions applied to deny access for the fiscal years 2000-2001, 2001-2002, 2002-2003, 2003-2004 and 2004-2005. These statistics are presented by mandatory exemptions, discretionary exemptions and other.

Table C – Freedom of Information Statistics by Institution – Applications for General Information

- provides statistics by institution on the number of general information requests received by each institution, the action taken on those requests, and the fees collected. If an institution is not listed, it did not receive any general information requests during the 2004-2005 fiscal year.

Table D – Freedom of Information Statistics by Institution – Applications for Personal Information

- provides the same information as above regarding the number of personal information requests received. Again, if an institution is not listed, it did not receive any personal information requests during the 2004-2005 fiscal year.

Table A
Freedom of Information Statistical Summary Report
2000-2001 to 2004-2005

	2000-01 Fiscal Year		2001-02 Fiscal Year		2002-03 Fiscal Year		2003-04 Fiscal Year		2004-05 Fiscal Year	
	Personal	General	Personal	General	Personal	General	Personal	General	Personal	General
Applications Received	125	273[1]	141	271	145	340	159	372	970*	396
Plus: Applications Carried Forward From Last Year	7	25	8	57	7	41	16	19	13	72
Less: Applications Withdrawn	3	10	5	18	2	25	1	17	2	25
Applications Carried Forward to Next Year	8	57[1]	7	41	16	19	13	72	480	45
TOTAL APPLICATIONS PROCESSED	121	231	137	269	134	337	161	302	501	398
APPLICATIONS STATUS										
Access Granted	40	119	37	148	24	194	48	188	61	233
Access Denied	34	28	56	41	40	38	37	25	25	39
Partially Granted	35	49	28	36	49	47	58	30	39	73
Do Not Require FOI for Access	6	9	2	3	9	11	7	8	11	10
Records Do Not Exist	5	25	11	40	7	47	9	50	361*	37
Records Could Not Be Found	1	1	3	1	5	0	2	1	4	6
TOTALS	121	231	137	269	134	337	161	302	501	398
PROCESSING TIME OF APPLICATIONS COMPLETED										
Processed Within 30 Days	100	194	101	239	108	291	114	272	464	328
Processed Within 31-60 Days	13	34	27	25	22	41	30	29	23	63
Processed In More than 60 Days	8	3	9	5	4	5	17	1	14	7
Total Fees Estimated[2]	$1,330	$329,379	$253	$18,934	$498	$20,882	$45	$28,861	$0	$62,846
Total Fees Collected[2]	$1,090	$1,903	$203	$1,670	$249	$6,293	$45	$93	$45	$570

[1] The 2000-2001 statistics for applications received and applications carried forward have been adjusted by one (as compared to the statistics presented in the 2000-2001 Annual Report). This adjustment reflects an amendment requested by an institution in fall 2001.

[2] The total fees estimated can vary significantly from the total fees collected. The total fees estimated is the cost assessed to process applications as determined by the fee structure outlined in the Regulations. The total fees collected refers to fees actually collected from the applicants. The applicant has several options in regard to the fees. The applicant can: modify the application in order to reduce the costs, request a waiver of the fees, or decide not to pay the fees and therefore not receive access to the records. The Regulations (Section 9) are very specific regarding the types of circumstances in which the "Head" can waive fees.

* The increase of personal applications for the 2004-05 fiscal year is attributed to a large number of applications which a department received for records which did not exist.

Table B
Exemptions Used To Deny Access
2000-2001 to 2004-2005

MANDATORY EXEMPTIONS	Section	2000-01 Fiscal Year	2001-02 Fiscal Year	2002-03 Fiscal Year	2003-04 Fiscal Year	2004-05 Fiscal Year
Records From Other Governments	13(1)	3	9	12	2	5
Cabinet Documents	16	5	47	14	6	10
Third Party Information	19	34	92	49	41	35
Confidentiality Provisions in Other Enactments	23	19	30	24	26	15
Disclosure of Personal Information	29	23	20	49	42	72
Personal Information of a Deceased Individual	30	0	3	1	2	0
TOTALS		84	201	149	119	137
DISCRETIONARY EXEMPTIONS	**Section**					
Records from Local Authorities	13(2)	3	3	1	1	8
Information Injurious to Intergovernmental Relations	14	0	2	3	0	0
Law Enforcement and Investigations	15	31	110	44	31	21
Advice from Officials	17	50	156	74	44	44
Economic and Other Interests	18	34	59	27	29	18
Testing Procedures, Tests and Audits	20	6	2	0	0	1
Danger to Health or Safety	21	0	1	8	3	2
Solicitor-Client Privilege	22	10	22	10	17	17
Individual's Access to Personal Information	31(2)	2	0	0	0	0
TOTALS		136	335	167	125	111
OTHER EXEMPTIONS	**Section**					
Not a Government Institution	2(1)d	0	0	0	0	0
Published Material or Public Record	3(1)a,b	13	0	12	3	10
Existing Rights Preserved	4	0	0	0	0	0
Right of Access Defined	5	0	0	0	0	0
Unable to Identify a Record	6(3)	1	0	0	0	0
Published Material or Material that is to be Published	7(2)b,c	1	9	0	2	1
Records do not Exist	7(2)e	30	44	47	57	405*
Refuse to Confirm/Deny Records Exist	7(4)	2	1	2	3	1
TOTALS		47	54	61	65	417

Note: The numbers in these columns indicate every time an exemption was used to deny access fully or in part. The exemption may be used several times in relation to an individual application and more than one exemption may be used for each application.

* The increase to the usage of 7(2)(e) for the 2004-05 fiscal year is attributed to a large number of applications which a department received for records which did not exist.

Table C
2004-2005 Fiscal Year
Freedom of Information Statistics by Institution – General Information

Institution	Application Carried Forward From Last Year	Total # Requests Received This Year*	Granted	Denied	Partially Granted	Act Not Required	Records Do Not Exist	Records Not Found	Application Withdrawn	Application Carried Forward to Next Year	Fees Collected
Agriculture, Food and Rural Revitalization	0	20	13	1	4	0	0	1	1	0	$0.00
Community Resources and Employment	3	15	10	1	1	0	0	0	0	3	$0.00
Corrections and Public Safety	7	13	6	1	3	0	3	0	0	0	$0.00
Crown Investments Corporation	1	13	7	2	2	0	2	0	0	0	$0.00
Culture, Youth and Recreation	3	15	7	2	2	0	1	1	0	2	$0.00
Environment	3	41	28	3	2	0	0	0	7	1	$0.00
Executive Council	3	14	4	1	2	4	2	0	1	0	$0.00
Finance	0	12	4	2	0	0	4	0	1	1	$0.00
First Nations and Métis Peoples and Justice Reform Commission	0	1	1	0	0	0	0	0	0	0	$0.00
**First Nations and Métis Relations	0	1	0	0	0	0	1	0	0	0	$0.00
**Government Relations	0	9	0	0	3	0	0	0	0	6	$0.00
**Government Relations and Aboriginal Affairs	5	5	5	0	0	0	0	0	0	0	$0.00
Health	0	24	7	1	6	1	2	2	0	5	$510.00
Highways and Transportation	1	9	7	1	0	0	0	0	0	1	$0.00
Industry and Resources	5	12	4	0	4	1	1	0	2	0	$0.00
Information Services Corporation	0	2	2	0	0	0	0	0	0	0	$0.00
Information Technology Office	2	2	2	0	0	0	0	0	0	0	$0.00
Investment Saskatchewan	0	13	10	1	1	1	0	0	0	0	$0.00
Justice	8	32	6	3	4	1	14	0	3	1	$0.00
Labour	0	31	10	5	7	0	1	2	0	6	$0.00
Labour Relations Board	0	1	0	0	0	1	0	0	0	0	$0.00
Learning	4	9	6	0	0	0	2	0	0	1	$0.00
Liquor and Gaming Authority	4	27	20	1	5	0	0	0	1	0	$0.00

Table C (continued)
2004-2005 Fiscal Year
Freedom of Information Statistics by Institution – General Information

Institution	Application Carried Forward From Last Year	Total # Requests Received This Year*	Granted	Denied	Partially Granted	Act Not Required	Records Do Not Exist	Records Not Found	Application Withdrawn	Application Carried Forward to Next Year	Fees Collected
Meewasin Valley Authority	0	1	1	0	0	0	0	0	0	0	$15.00
Northern Affairs	1	3	1	0	1	0	0	0	1	0	$0.00
Police Complaints Investigator	0	3	0	0	0	0	0	0	0	3	$0.00
Public Service Commission	0	1	0	0	0	1	0	0	0	0	$0.00
Sask. Arts Board	0	1	1	0	0	0	0	0	0	0	$0.00
Sask. Crop Insurance Corporation	0	1	1	0	0	0	0	0	0	0	$0.00
Sask. Gaming Corporation	1	4	3	0	1	0	0	0	0	0	$0.00
Sask. Government Insurance	4	25	13	2	7	0	0	0	0	3	$0.00
Sask. Legal Aid Commission	0	1	0	0	0	0	0	0	1	0	$0.00
Sask. Opportunities Corporation	0	1	1	0	0	0	0	0	0	0	$0.00
Sask. Police Commission	0	1	1	0	0	0	0	0	0	0	$0.00
Sask. Power Corporation	4	26	11	4	4	0	0	0	4	3	$0.00
Sask. Property Management Corporation	3	18	5	2	5	0	1	0	1	4	$0.00
Sask. Research Council	1	1	0	1	0	0	0	0	0	0	$0.00
Sask. Telecommunications	4	17	10	3	0	0	0	0	2	2	$0.00
Sask. Transportation Company	1	5	3	0	2	0	0	0	0	0	$0.00
Sask. Water Corporation	1	5	3	1	1	0	0	0	0	0	$0.00
Sask. Watershed Authority	1	3	2	0	1	0	0	0	0	0	$0.00
Saskenergy Incorporated	2	20	10	1	4	0	2	0	0	3	$0.00
Workers' Compensation Board	0	10	8	0	1	0	1	0	0	0	$0.00
Totals	**72**	**468**	**233**	**39**	**73**	**10**	**37**	**6**	**25**	**45**	**$525.00**

* Includes requests carried forward from previous fiscal year.

** Effective October 1, 2004, the Department of Government Relations and Aboriginal Affairs was reorganized into two departments – the Department of Government Relations and the Department of First Nations and Métis Relations.

Table D
2004-2005 Fiscal Year
Freedom of Information Statistics by Institution – Personal Information

Institution	Application Carried Forward From Last Year	Total # Requests Received This Year*	Granted	Denied	Partially Granted	Act Not Required	Records Do Not Exist	Records Not Found	Application Withdrawn	Application Carried Forward to Next Year	Fees Collected
Agriculture, Food and Rural Revitalization	0	1	0	0	0	0	1	0	0	0	$0.00
Automobile Injury Appeal Commission	0	1	0	0	0	0	0	0	0	1	$0.00
Community Resources and Employment	3	37	12	12	10	0	0	2	0	1	$0.00
Corrections and Public Safety	0	4	0	0	3	0	0	0	1	0	$0.00
Crown Investments Corporation	0	4	2	0	1	0	0	0	0	1	$0.00
Environment	0	1	0	0	0	0	0	0	0	1	$0.00
Finance	0	8	8	0	0	0	0	0	0	0	$0.00
Health	0	5	1	0	0	0	2	2	0	0	$0.00
Industry and Resources	0	1	0	0	0	0	0	0	1	0	$0.00
Justice	1	7	0	1	1	0	4	0	0	1	$0.00
Labour	0	815	10	5	1	1	342	0	0	456	$0.00
Labour Relations Board	0	8	0	0	0	8	0	0	0	0	$0.00
Learning	2	5	3	0	0	0	0	0	0	2	$0.00
Office of the Rentalsman	0	1	0	0	1	0	0	0	0	0	$0.00
Public Guardian and Trustee of Saskatchewan	0	1	0	1	0	0	0	0	0	0	$0.00
Sask. Archives Board	0	1	0	0	0	1	0	0	0	0	$0.00
Sask. Crop Insurance Corporation	0	2	1	0	0	0	0	0	0	1	$0.00
Sask. Gaming Corporation	0	1	0	0	0	0	1	0	0	0	$45.00
Sask. Government Insurance	6	59	23	1	20	0	0	0	0	15	$0.00
Sask. Human Rights Commission	0	14	0	0	2	0	11	0	0	1	$0.00
Sask. Power Corporation	1	1	0	1	0	0	0	0	0	0	$0.00
Sask. Telecommunications	0	1	0	1	0	0	0	0	0	0	$0.00
Workers' Compensation Board	0	5	1	3	0	1	0	0	0	0	$0.00
Totals	**13**	**983**	**61**	**25**	**39**	**11**	**361**	**4**	**2**	**480**	**$45.00**

* Includes requests carried forward from previous fiscal year.

Appeals to the Information and Privacy Commissioner

Section 49 of *The Freedom of Information and Protection of Privacy Act* provides a right of review to applicants by the Information and Privacy Commissioner in the event access to information is refused on the following basis:

- where an applicant is not satisfied with the decision of a head ...;
- where a head fails to respond to an application for access to a record within the required time; or
- where an applicant requests a correction of personal information ... and the correction is not made.

During the 2004-2005 fiscal year, the Information and Privacy Commissioner advised government institutions of his review of eighty-six of the decisions made by access officers refusing access to records.

In some instances the Commissioner upheld the decisions to deny access and in others he recommended that access be granted.

Where the Commissioner recommends that access be granted, the government institution involved must reconsider the question of access and determine whether to accept the recommendation. This is not an easy decision, since the original decision to deny access was carefully made.

Further details on these reviews can be obtained from the Information and Privacy Commissioner's Annual Report.